



[BILLING CODE: 4810-33-P]

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities:

Information Collection Renewal; Comment Request;

Capital Adequacy Standards

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

Under the PRA, Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, "Capital Adequacy Standards."

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0318, 400 7th Street, SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to regs.comments@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection from Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649-5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

In connection with issuance of the Basel III final rule,¹ OMB provided a six-month approval for this information collection. The OCC is proposing to extend OMB approval of the collection for the standard three years.

Title: Capital Adequacy Standards.

OMB Control No.: 1557-0318.

Frequency of Response: On occasion.

Affected Public: Business or other for-profit.

Section-by-Section-Analysis

Twelve CFR part 3 sets forth the OCC's minimum capital requirements and overall capital adequacy standards for national banks and Federal savings associations.

¹ 78 FR 62018 (October 11, 2013).

Section 3.3(c) allows for the recognition of netting across multiple types of transactions or agreements if the institution obtains a written legal opinion verifying the validity and enforceability of the agreement under certain circumstances and maintains sufficient written documentation of this legal review.

Section 3.22(h)(2)(iii)(A) permits the use of a conservative estimate of the amount of an institution's investment in its own capital or the capital of unconsolidated financial institutions held through the index security with prior approval by the OCC.

Section 3.35(b)(3)(i)(A) requires, for a cleared transaction with a qualified central counterparty (QCCP), that a client bank apply a risk weight of two percent, provided that the collateral posted by the bank to the QCCP is subject to certain arrangements and the client bank has conducted a sufficient legal review (and maintains sufficient written documentation of the legal review) to conclude with a well-founded basis that the arrangements, in the event of a legal challenge, would be found to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions.

Section 3.37(c)(4)(i)(E), regarding collateralized transactions, requires that a bank have policies and procedures in place describing how it determines the period of significant financial stress used to calculate its own internal estimates for haircuts and be able to provide empirical support for the period used.

Section 3.41(b)(3) which sets forth operational requirements for securitization exposures, allows the national bank or Federal savings association to recognize for risk-based capital purposes, in the case of synthetic securitizations, a credit risk mitigant to hedge underlying exposures if certain conditions are met, including a requirement that the national bank or Federal savings association obtain a well-reasoned opinion from legal

counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions.

Section 3.41(c)(2)(i) requires that a national bank or Federal savings association demonstrate its comprehensive understanding of a securitization exposure by conducting and documenting an analysis of the risk characteristics of each securitization exposure prior to its acquisition, taking into account a number of specified considerations.

If a national bank or Federal savings association provides non-contractual support to a securitization, § 3.42(e)(2), regarding risk-weighted assets for securitization exposures, requires that a national bank or Federal savings association to publicly disclose that it has provided implicit support to a securitization and the risk-based capital impact to the bank of providing such implicit support.

Section 3.62 sets forth disclosure requirements related to the capital requirements of a national bank or Federal savings association. These requirements apply to a national bank or Federal savings association with total consolidated assets of \$50 billion or more that is not a consolidated subsidiary of an entity that is itself subject to Basel III disclosures. Section 3.62(a) requires quarterly disclosure of information in the applicable tables in section 3.63 and, if a significant change occurs, such that the most recent reported amounts are no longer reflective of the institution's capital adequacy and risk profile, section 3.62(a) requires the national bank or Federal savings association to disclose as soon as practicable thereafter, a brief discussion of the change and its likely impact. Section 3.62(a) permits annual disclosure of qualitative information that typically does not change each quarter, provided that any significant changes are disclosed in the interim. Section 3.62(b) requires that a national bank or Federal savings

association have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy must address the associated internal controls and disclosure controls and procedures. Section 3.62(c) permits a national bank or Federal savings association to disclose more general information about certain subjects if the national bank or Federal savings association concludes that the specific commercial or financial information required to be disclosed under § 3.62 is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), and national bank or Federal savings association provides the reason the specific items of information have not been disclosed.

Section 3.63 sets forth the specific disclosure requirements for a non-advanced approaches national bank or Federal savings association with total consolidated assets of \$50 billion or more that is not a consolidated subsidiary of an entity that is itself subject to Basel III disclosure requirements. Section 3.63(a) requires those institutions to make the disclosures in Tables 1 through 10 to § 3.63 and in § 3.63(b) for each of the last three years beginning on the effective date of the rule. Section 3.63(b) requires quarterly disclosure of an institution's common equity tier 1 capital, additional tier 1 capital, tier 2 capital, tier 1 and total capital ratios, including the regulatory capital elements and all the regulatory adjustments and deductions needed to calculate the numerator of such ratios; total risk-weighted assets, including the different regulatory adjustments and deductions needed to calculate total risk-weighted assets; regulatory capital ratios during any transition periods, including a description of all the regulatory capital elements and all regulatory adjustments and deductions needed to calculate the numerator and denominator of each capital ratio during any transition period; and a reconciliation of

regulatory capital elements as they relate to its balance sheet in any audited consolidated financial statements. Tables 1 through 10 to § 3.63 set forth qualitative and/or quantitative requirements for scope of application, capital structure, capital adequacy, capital conservation buffer, credit risk, counterparty credit risk-related exposures, credit risk mitigation, securitizations, equities not subject to Subpart F (Market Risk requirements) of the rule, and interest rate risk for non-trading activities.

Section 3.121 requires a national bank or Federal savings association subject to the advanced approaches risk-based capital requirements to adopt a written implementation plan to address how it will comply with the advanced capital adequacy framework's qualification requirements and also develop and maintain a comprehensive and sound planning and governance process to oversee the implementation efforts described in the plan. Section 3.122 further requires these institutions to: develop processes for assessing capital adequacy in relation to an organization's risk profile; establish and maintain internal risk rating and segmentation systems for wholesale and retail risk exposures, including comprehensive risk parameter quantification processes and processes for annual reviews and analyses of reference data to determine their relevance; document its process for identifying, measuring, monitoring, controlling, and internally reporting operational risk; verify the accurate and timely reporting of risk-based capital requirements; and monitor, validate, and refine its advanced systems.

Section 3.123 sets forth ongoing qualification requirements that require an institution to notify the OCC of any material change to an advance system and to establish and submit to the OCC a plan for returning to compliance with the qualification requirements.

Section 3.124 requires a national bank or Federal savings association to submit to the OCC, within 90 days of consummating a merger or acquisition, an implementation plan for using its advanced systems for the merged or acquired company.

Section 3.132(b)(2)(iii)(A) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and over-the-counter (OTC) derivative contracts, and internal estimates for haircuts. With the prior written approval of the OCC, an institution may calculate haircuts (H_s and H_{fx}) using its own internal estimates of the volatilities of market prices and foreign exchange rates. The section requires national banks and Federal savings associations to satisfy certain minimum quantitative standards in order to receive OCC approval to use its own internal estimates.

Section 3.132(b)(3) covers counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, and simple Value-at-Risk (VaR) methodology. With the prior written approval of the OCC, a national bank or Federal savings association may estimate exposure at default (EAD) for a netting set using a VaR model that meets certain requirements.

Section 3.132(d)(1) permits the use of the internal models methodology (IMM) to determine EAD for counterparty credit risk for derivative contracts with prior written approval from the OCC. Section 3.132(d)(1)(iii) permits the use of the internal models methodology for derivative contracts, eligible margin loans, and repo-style transactions subject to a qualifying cross-product netting agreement with prior written approval from the OCC.

Section 3.132(d)(2)(iv) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, and risk-weighted

assets using IMM. Under the IMM, an institution uses an internal model to estimate the expected exposure (EE) for a netting set and then calculates EAD based on that EE. An institution must calculate two EEs and two EADs (one stressed and one unstressed) for each netting as outlined in this section. A national bank or Federal savings association may use a conservative measure of EAD subject to prior written approval of the OCC.

Section 3.132(d)(3)(vi) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts. To obtain OCC approval to calculate the distributions of exposures upon which the EAD calculation is based, a national bank or Federal savings association must demonstrate to the satisfaction of the OCC that it has been using for at least one year an internal model that broadly meets the minimum standards, with which the institution must maintain compliance. The institution must have procedures to identify, monitor, and control wrong-way risk throughout the life of an exposure and they must include stress testing and scenario analysis.

Section 3.132(d)(3)(viii) addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts. When estimating model parameters based on a stress period, a national bank or Federal savings association must use at least three years of historical data that include a period of stress to the credit default spreads of the institution's counterparties. The institution must review the data set and update the data as necessary, particularly for any material changes in its counterparties. The institution must demonstrate at least quarterly that the stress period coincides with increased credit default swap (CDS) or other credit spreads of the institution's counterparties. The institution must have procedures to evaluate the

effectiveness of its stress calibration that include a process for using benchmark portfolios that are vulnerable to the same risk factors as the institution's portfolio. The OCC may require the institution to modify its stress calibration to better reflect actual historic losses of the portfolio.

Section 3.132(d)(3)(ix), regarding counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, requires that an institution must subject its internal model to an initial validation and annual model review process that includes consideration of whether the inputs and risk factors, as well as the model outputs, are appropriate. The section requires national banks and Federal savings associations to have a backtesting program for its model that includes a process by which unacceptable model performance will be determined and remedied.

Section 3.132(d)(3)(x), regarding counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, provides that an national bank or Federal savings association must have policies for the measurement, management, and control of collateral and margin amounts.

Section 3.132(d)(3)(xi), concerning counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts, states that an institution must have a comprehensive stress testing program that captures all credit exposures to counterparties, and incorporates stress testing of principal market risk factors and creditworthiness of counterparties.

Section 3.141 relates to operational criteria for recognizing the transfer of risk in connection with a securitization. Section 3.141(b)(3) requires a national bank or Federal savings association to obtain a well-reasoned legal opinion confirming the enforceability

of the credit risk mitigant in all relevant jurisdictions in order to recognize the transference of risk in connection with a synthetic securitization. An institution must demonstrate its comprehensive understanding of a securitization exposure under § 3.141(c)(2) for each securitization exposure by conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure and document such analysis within three business days after acquiring the exposure. Sections 3.141(c)(2)(i) and (ii) require that institutions, on an on-going basis (at least quarterly), evaluate, review, and update as appropriate the analysis required under this section for each securitization exposure.

Section 3.142(h)(2), regarding the capital treatment for securitization exposures, requires a national bank or Federal savings association to disclose publicly if it has provided implicit support to a securitization and the regulatory capital impact to the institution of providing such implicit support.

Section 3.153(b), outlining the Internal Models Approach (IMA) for calculating risk-weighted assets for equity exposures, specifies that a national bank or Federal savings association must receive prior written approval from the OCC before it can use IMA.

Section 3.172 specifies that each advanced approaches national bank or Federal savings association that has completed the parallel run process must publicly disclose its total and tier 1 risk-based capital ratios and their components.

Section 3.173 addresses disclosures by an advanced approaches national bank or Federal savings association that is not a consolidated subsidiary of an equity that is subject to the Basel III disclosure requirements. An advanced approaches institution that

is subject to the disclosure requirements must make the disclosures described in Tables 1 through 12. The institution must make these disclosures publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on the effective date of this subpart E.

The tables to section 3.173 require qualitative and quantitative public disclosures for capital structure, capital adequacy, capital conservation and countercyclical buffers, credit risk, securitization, operational risk, equities not subject to the market risk capital requirements, and interest rate risk for non-trading activities.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: February 24, 2014.

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Legislative and Regulatory Activities Division.

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